**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 3611 OF 2003**

Smt. Sunita Sanjay Tripathi & Ors. ... Petitioners.

V/s.

M/s. Saraswati Seva Sangh & Ors. ... Respondents.

Mr. C.K. Thomas for the Petitioners.
Mr. C.H. Gangan for Respondent 1.

**CORAM : MRS. NISHITA MHATRE,J.**
**DATE : 11TH OCTOBER, 2007.**

**P.C. :**

. This Petition has been filed against the order passed by the School Tribunal rejecting the amendment application filed by the Petitioner. The Petitioner has, by this application, sought to join the Secretary, Mumbai Hindi Sahitya Parishad and the Education Officer, Secondary, Zilla Parishad, Thane as the Respondents to the Appeal filed by the Petitioner in the School Tribunal. The Petitioner had contended in her amendment application that the Respondent No.1 was conducting the affairs of the Respondent No.2 - School without authority of law. It was, therefore, necessary to join Mumbai Hindi Sahitya Parishad as a party Respondent to the Appeal. This institution was running Respondent No.2 - School till the activities were taken over by Respondent No.1 in the year 1990. The Charity Commissioner had not approved of the take

over according to the Petitioner and therefore, it was necessary that the amendment be allowed. It was pleaded that through inadvertence, the Petitioner had not joined the aforesaid two parties to the Appeal.

2. The School Tribunal has dismissed the application on the ground that the 1st Respondent is conducting the affairs of the School and the Mumbai Hindi Sahitya Parishad has nothing to do with the School. It was therefore held that the Mumbai Hindi Sahitya Parishad was not a necessary party and the application was rejected. There is no discussion as to why the Tribunal has rejected the prayer for adding the Education Officer as a party Respondent.

3. An affidavit has been filed by the Petitioner after the Petition was lodged. This affidavit discloses that pursuant to the orders of this Court in Writ Petition No. 3025 of 2001, the Deputy Director, Nasik had passed an order concluding that Respondent No.1 i.e. M/s. Saraswati Seva Sangh had no authority to conduct Respondent No.2 - School. This order of the Deputy Director was challenged by the 1st Respondent in Writ Petition No.2580 of 2003 before the Division Bench of this Court. By an order dated 1st September 2003, the Petition was dismissed by the Division Bench since it involved several disputed questions of facts. Liberty was granted to M/s.

Saraswati Seva Sangh to adopt appropriate proceedings.

4. It appears that Special Civil Suit No. 116 of 2003 filed by M/s. Saraswati Seva Sangh, this suit has been dismissed by the Civil Judge, Senior Division, Palghar since it had been filed without sanction of the Charity Commissioner.

5. Nobody appears for the Respondents though served. There can be no doubt that the proposed Respondents are necessary parties to the appeal. the Charity commissioner has not approved of the take over of the School by Respondents. The Deputy Director of Education has also held that Respondents had no authority to conduct the affairs of the School.

6. In these circumstances, the order of the School Tribunal must be set aside. The application for amendment is allowed. The amendment to be carried out within four weeks from today. Appeal to be disposed of expeditiously. Petition allowed accordingly.

**(MRS. NISHITA MHATRE,J.)**